

## REMARKS

This amendment is responsive to the Office Action mailed January 8, 2008. Claims 125-145 and 197-240 were pending and under consideration. In particular, claims 142-145, 197-212, 225, 227-235, and 239-240 were allowed, claims 125, 126, 129-141, 221-224, 226, and 236-238 were rejected, and claims 127, 128 and 216-220 were objected to.

In the present paper, claims 127-129, 131, 134, 137, 139, 141, 216, 219, 221, 223, 224, 226, and 236 are amended, claims 125 and 126 are cancelled, and claims 241-246 are presented for consideration. Thus, following entry of the present amendment to the claims 127-145, 197-212, and 216-246 will be pending and under consideration.

Applicants note with appreciation the PTO's indication of the allowability of claims 142-145, 197-212, 225, 227-235, and 239-240 and kindly thank the PTO for the same. Applicants further kindly thank the PTO for indicating that the present application is entitled to benefit of priority to U.S. provisional application no. 60/426,234 and for the withdrawal of the previously outstanding rejections.

### **I. The Amendments to the Claims**

In the present paper, claims 125 and 126 are cancelled. Applicants expressly reserve the right to prosecute claims directed to the cancelled subject matter in one or more related continuation, divisional, and/or continuation-in-part applications and in no manner concede the unpatentability of the cancelled claims.

Further, claims 127-129, 131, 134, 137, 139, 141, 216, 219, 221, 223, 224, 226, and 236 are amended. As the amendments to the claims are fully supported by the application as filed, no new matter is presented by the present amendment to the claims. Applicants note that the amendments to, for example, claims 127-129, 131, 134, 137, 139, 141, 216, 219, 221, 223, 224, 226, and 236 clarify that which applicants have always regarded as their invention.

Claims 127 and 216, which previously depended from claim 125, have been amended to incorporate the limitations of cancelled claim 125 and to clarify the claimed subject matter. In particular, claim 127 has been amended to clarify that the claimed antisense oligonucleotide is 20 to 30 nucleobases in length, consistent with the length of SEQ ID NO:247. Support for this amendment may be found, for example, in SEQ ID NO:247, which appears in both the instant application and priority provisional application no. 60/426,234.

Claim 216 has been amended to clarify that the claimed antisense oligonucleotide comprises at least 13 contiguous nucleobases of SEQ ID NO:247. Both the instant application and the priority provisional application disclose numerous oligonucleotides 20 nucleobases in length that comprise 13 or more contiguous nucleobases of SEQ ID NO:247.

For the PTO's convenience, Table 1, below, summarizes antisense oligonucleotides comprising at least 13 contiguous nucleobases selected from SEQ ID NO:247, at least 13, at least 14, at least 15, at least 16, at least 17, at least 19 nucleobases, or all 20 nucleobases of SEQ ID NO: 247. Table 1 also explicitly identifies the number of contiguous nucleobases of SEQ ID NO:247 for each oligonucleotide. These same oligonucleotides are disclosed in the instant application in Tables 11, 12, 13, and 16 at pages 148-149, 151-152, 153, and 163-164, respectively, of the application as filed.

TABLE 1						
Isis No.	Sequence	5' Site on SEQ ID NO: 3	SEQ ID NO in '795	# Contiguous nucleobases of SEQ ID NO: 247	Page of '234	Row of Table of '234
308595	TCTGCTTCGCACCTTCTGCT	3242	291	13	130	25
308596	AGTCTGCTTCGCACCTTCTG	3244	292	15	121	9
308597	TCAGTCTGCTTCGCACCTTC	3246	293	17	130	3
308627	TCAGTCTGCTTCGCGCCTTC	3246	331	14	130	4
308598	CCTCAGTCTGCTTCGCACCT	3248	294	19	124	4
308628	CCTCAGTCTGCTTCGCGCCT	3248	332	16	124	5
271009	GCCTCAGTCTGCTTCGCGCC	3249	319	17	127	6
299706	GCCTCAGTCTGCTTCGCGCC	3249	319	17	127	7
299708	GCCTCAGTCTGCTTCGCGCC	3249	319	17	127	8
<b>301012</b>	<b>GCCTCAGTCTGCTTCGCACC</b>	<b>3249</b>	<b>247</b>	<b>20</b>	<b>126</b>	<b>26</b>
308630	GCCTCAGTCTGCTTCGCGCC	3249	319	17	127	9
308632	GCCTCAGTCTGCTTCGCACC	3249	247	20	126	27
308633	GCCTCAGTCTGCTTCGCGCC	3249	319	17	127	10
308635	GCCTCAGTCTGCTTCGCACC	3249	247	20	126	28
308636	GCCTCAGTCTGCTTCGCGCC	3249	319	17	127	11
308638	GCCTCAGTCTGCTTCGCACC	3249	247	20	126	29
308639	GCCTCAGTCTGCTTCGCGCC	3249	319	17	127	12
308641	GCCTCAGTCTGCTTCGCACC	3249	247	20	126	30
308642	GCCTCAGTCTGCTTCGCGCC	3249	319	17	127	13
308644	GCCTCAGTCTGCTTCGCACC	3249	247	20	126	31
308645	GCCTCAGTCTGCTTCGCGCC	3249	319	17	127	14
308647	GCCTCAGTCTGCTTCGCACC	3249	247	20	127	1
308648	GCCTCAGTCTGCTTCGCGCC	3249	319	17	127	15
308650	GCCTCAGTCTGCTTCGCACC	3249	247	20	127	2
308651	GCCTCAGTCTGCTTCGCGCC	3249	319	17	127	16
308653	GCCTCAGTCTGCTTCGCACC	3249	247	20	127	3
308654	GCCTCAGTCTGCTTCGCGCC	3249	319	17	127	17
308656	GCCTCAGTCTGCTTCGCACC	3249	247	20	127	4
308657	GCCTCAGTCTGCTTCGCGCC	3249	319	17	127	18
308659	GCCTCAGTCTGCTTCGCACC	3249	247	20	127	5
308599	AGCCTCAGTCTGCTTCGCAC	3250	295	19	120	15
308629	AGCCTCAGTCTGCTTCGCGC	3250	333	17	120	16
308600	GTAGCCTCAGTCTGCTTCGC	3252	296	17	128	21

TABLE 1						
Isis No.	Sequence	5' Site on SEQ ID NO: 3	SEQ ID NO in '795	# Contiguous nucleobases of SEQ ID NO: 247	Page of '234	Row of Table of '234
308601	TGGTAGCCTCAGTCTGCTTC	3254	297	15	131	20
308660	TGGTAGCCTCAGTCTGCTTC	3254	514	15	131	21
308662	TGGTAGCCTCAGTCTGCTTC	3254	514	15	131	22
308602	CATGGTAGCCTCAGTCTGCT	3256	298	13	123	4

Claims 128, 129, 131, 134, 137, 139, 141, 221, and 223 have been amended to change their dependencies in view of the cancellation of claim 125 and/or 126. Claim 219 has been amended to correct a typographical error. Claims 224, 226, and 236 have been amended to conform to the antecedent in the claims from which they depend.

Support for new claim 241 may be found, for example, in each of the species listed in Table 1, above, which summarizes oligonucleotides fully complementary to SEQ ID NO:3 found in the specification of the instant application and the priority provisional application. Support for new claim 242 may be found, for example, in the specification at page 147, line 37, to page 148, line 14. Support for new claims 243 and 245 may be found, for example, in the specification at page 247, lines 18-20. Support for new claims 244 and 246 may be found, for example, in the specification at page 252, lines 25-29.

In view of the foregoing, Applicants respectfully submit that the amendments to the claims and the new claims are fully supported by the application as filed and therefore introduce no new matter.

Entry of the present amendment to the claims is proper under 37 C.F.R. § 1.116 as the amendments are believed to place the application in condition for allowance. In addition, the new claims depend from allowable claims and present no new issues with regard to § 112. Therefore, no new search will be required to examine the new claims. Accordingly, entry of the present amendment to the claims is hereby respectfully requested under 37 C.F.R. § 1.116.

## **II. The Rejections Under 35 U.S.C. § 102**

Claims 125 and 141 stand rejected as allegedly anticipated under 35 U.S.C. § 102(e) by Almstead *et al.* (U.S. Patent No. 6,878,729). Without acquiescing to the propriety of the rejection, and solely to expedite prosecution of the claims, claim 125 has been cancelled and claim 141 has been amended to depend from claim 127. As the PTO has indicated that claim 127 is patentable over Almstead *et al.*, claim 141 is also patentable. Accordingly, Applicants believe the rejection of claims 125 and 141 as allegedly anticipated under 35 U.S.C. § 102(e) by Almstead *et al.* is moot and respectfully request its withdrawal.

In addition, claims 125, 126, 129, and 130 stand rejected as allegedly anticipated under 35 U.S.C. § 102(b) by Ono *et al.* (WO 98/36641 A1). Without acquiescing to the propriety of the rejection, and solely to expedite prosecution of the claims, claims 125 and 126 have been cancelled and claim 129 has been amended to depend from claim 127. Claim 130 depends from claim 129 and therefore also depends from claim 127 following entry of the present amendment. As the PTO has indicated that claim 127 is patentable over Ono *et al.*, claims 129 and 130 are also patentable. Accordingly, Applicants believe the rejection of claims 125, 126, 129, and 130 as allegedly anticipated under 35 U.S.C. § 102(a) by Ono *et al.* is moot and respectfully request its withdrawal.

## **III. The Rejections Under 35 U.S.C. § 103(a)**

Claims 125, 129-141, 237, and 238 stand rejected as allegedly obvious under 35 U.S.C. § 103(a) as allegedly obvious over Almstead *et al.* in view of Bennett *et al.*, Dempcy *et al.*, and Simeonov *et al.* Without acquiescing to the propriety of the rejection, and solely to expedite prosecution of the claims, claim 125 has been cancelled and claims 129-141, 237, and 238 have been amended to depend, either directly or indirectly, from claim 127. As the PTO has indicated that claim 127 is patentable over the art of record, claims 129-141, 237, and 238 are also patentable. Accordingly, Applicants believe the rejection of claims 125, 129-141, 237, and 238 as allegedly obvious under 35 U.S.C. § 103(a) over Almstead *et al.* in view of Bennett *et al.*, Dempcy *et al.*, and Simeonov *et al.* is moot and respectfully request its withdrawal.

In addition, claims 125, 126, 129-141, 221-223, 237, and 238 stand rejected as allegedly obvious under 35 U.S.C. § 103(a) as allegedly obvious over Ono *et al.* in view of Bennet *et al.* and Wendel *et al.* Without acquiescing to the propriety of the rejection, and solely to expedite prosecution of the claims, claims 125 and 126 have been cancelled and claims 129-141, 221-223, 237, and 238 have been amended to depend, either directly or

indirectly, from claim 127. As the PTO has indicated that claim 127 is patentable over the art of record, claims 129-141, 221-223, 237, and 238 are also patentable. Accordingly, Applicants believe the rejection of claims 125, 126, 129-141, 221-223, 237, and 238 as allegedly obvious under 35 U.S.C. § 103(a) over Ono *et al.* in view of Bennet *et al.* and Wendel *et al.* is moot and respectfully request its withdrawal.

**IV. The Rejection Under 35 U.S.C. § 112, Second Paragraph**

Claims 224, 226, and 236 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite as the recitation “at least one additional therapeutic agent” lacks antecedent basis. Claims 224, 226, and 236 have been amended to recite “at least one additional pharmaceutically active material,” which finds antecedent basis in claims 223, 25, and 235, respectively. Applicants therefore respectfully submit that the rejection of claims 224, 226, and 236 under 35 U.S.C. § 112, second paragraph, is moot and respectfully request its withdrawal.

**V. The Objection to Claims 127 and 128**

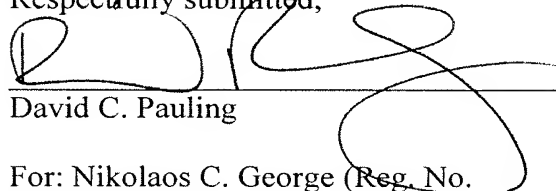
Claims 127, 128, and 216-220 stand objected to as drawn to allowable subject matter but depending from a rejected base claim. Claims 127 and 216 have been amended to incorporate the limitations of the rejected base claim, and claims 128 and 217-220 depend from claims 217 and 216, respectively. Accordingly, Applicants believe the objection is moot in view of the amendments to the claims and respectfully request its withdrawal.

**VI. Conclusion**

In light of the above amendments and remarks, the Applicant respectfully requests that the PTO reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney at (650) 739-3949, if a telephone call could help resolve any remaining items.

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Respectfully submitted,

  
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